

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES**

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

**General Electric Capital Assurance Company
NAIC No. 70025**

Enforcement Case No. 04-2924

Respondent

_____ /

Issued and entered
On the 20th day of December, 2004
by Linda A. Watters
Commissioner

CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all pertinent times General Electric Capital Assurance Company (“Respondent”) was an admitted insurance carrier doing business in the State of Michigan since August 25, 1978. Respondent’s NAIC number is 70025.
2. On or about April 8, 2004, OFIS received a complaint against Respondent from XXX (“Complainant”) alleging improper payment of commissions by Respondent.
3. Based on the complaint OFIS conducted an investigation of Respondent.
4. Respondent knew or had reason to know that, Section 2011(1) of the Michigan Insurance Code states it is an unfair method of competition and an unfair or deceptive act in the business of insurance to provide commission or other compensation to the insurer’s representatives for the sale of a disability policy to an individual eligible for Medicare,

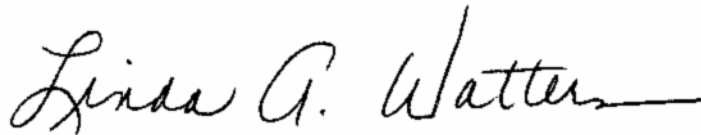
unless the amount of the commission paid in the first year of the policy is not more than the amount that the insurer's representative receives for the policy in each of the two (2) subsequent, consecutive annual renewal periods.

5. Respondent entered into commission payment contracts with their Michigan producers selling long term care insurance (LTC) and home health care (HHC) policies. The first through third year commission percentage was based upon the agent's career path and varied from 30% to 40%.
6. Respondent's contract with Complainant, dated January 1, 1997, states that the first through third years would yield a commission of 40% of the paid premiums, with renewal commissions in subsequent years paying 4%.
7. The contract appears to show level commissions for three years, however page three of the sales agreement shows Respondent paid their producers 40% in the first year of the policy, but paid them 40% minus 36% for administrative support in years two and three.
8. As a result of the administrative support charges, Respondent's producers received 30% or 40% commissions in year one followed by 4% in subsequent years.
9. Prior to OFIS receiving a complaint against Respondent, Respondent initiated a voluntary change to its commission payment structure to eliminate the administrative support charges describe in paragraph 7 with respect to new LTC sales to Michigan policyholders 65 years or older ("Levelized Commissions Without Support Charges"). On or about June 26, 2004, Respondent began paying Levelized Commissions Without Support Charges.

B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

1. Respondent shall continue to pay Levelized Commissions Without Support Charges pursuant to this Consent Order and otherwise comply with Section 2011(a) of the Michigan Insurance Code.
2. Respondent shall pay to the State of Michigan, through the Office of Financial and Insurance Services, twenty five thousand dollars (\$25,000.00) to resolve OFIS' request for a civil fine. The fine shall be paid within thirty (30) days of the date of entry of this Order.

A handwritten signature in black ink, reading "Linda A. Watters", followed by a horizontal line.

Linda A. Watters, Commissioner
Office of Financial and Insurance Services